



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 27, 1995

Ms. Nancy Wright
Detective Sergeant
Saginaw Police Department
404 South Saginaw Boulevard
Saginaw, Texas 76179

OR95-096

Dear Ms. Wright:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 29741.

The Saginaw Police Department (the "department") has received a request for a certain child abuse investigation file. The requestor seeks "any information you may have regarding . . . the incident," including, "copies of the photographs taken of the victim" and "copies of any supplemental reports that may have been filed in this matter, or any other cases of this nature you may have on file regarding [the alleged perpetrator]." You object to releasing the requested information and claim that section 552.108 of the Government Code exempts it from required public disclosure.

The attorney general will not ordinarily raise an exception that might apply but that the governmental body has failed to claim. *See* Open Records Decision No. 325 (1982) at 1. However, we will raise section 552.101 of the Government Code because the release of confidential information could impair the rights of third parties and because the improper release of confidential information constitutes a misdemeanor. *See* Gov't Code § 552.352. Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Because we resolve your request under section 552.101, we do not address the extent to which section 552.108 applies to these records.

Chapter 34 of the Family Code concerns, among other things, reports of child abuse to local law enforcement agencies. Section 34.08(a) of the Family Code provides:

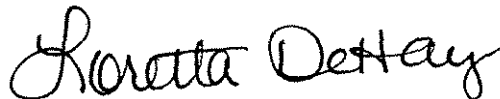
Except as provided in Subsections (b) and (c) of this section, the reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

Subsections (b) and (c) relate to the disclosure of records concerning an investigation of an adopted child to the adoptive parents, prospective adoptive parents, or to the child upon reaching adulthood. Neither subsection is applicable to the current request.

Because you have not cited any specific regulation that the department has adopted with regard to the release of this type of information, we assume that no such regulation exists. Given that assumption, the records at issue are confidential pursuant to section 34.08(a) of the Family Code. See Open Records Decision No. 440 (1986) at 2. Accordingly, the department must withhold the requested records in their entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/GCK/rho

Ref.: ID# 29741

Enclosures: Submitted documents

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(w/o enclosures)